

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554**

In the Matter of)	
)	
Amendment of the Schedule of Application Fees)	MD Docket No. 20-270
Set Forth in Sections 1.1102 through 1.1109 of the)	
Commission's Rules)	

To: The Commission

**COMMENTS OF
ARRL, THE NATIONAL ASSOCIATION FOR AMATEUR RADIO**

ARRL, the national association for Amateur Radio, also known as the American Radio Relay League, Incorporated (“ARRL”), submits these Comments on the Commission’s Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding in opposition to charging fees for amateur license applications.¹

Licensees in the Amateur Radio Service were not subject to application fees under the earlier statutory provision, and nothing in the current statute or its legislative history conveys any Congressional intent that applications for amateur radio licensees be subject to application fees. Congress and the Commission long have recognized the significant contributions of the Amateur Radio Service, its continuing benefits, and the unique public interest that adheres to its activities.

¹ Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission’s Rules, Notice of Proposed Rulemaking, MD Docket No. 20-270 (FCC 20-116, rel. Aug. 26, 2020), 85 Fed.Reg. 65566 (publ. Oct. 15, 2020).

The record in this proceeding already contains filings submitted by over 3,000 individual radio amateurs who overwhelmingly oppose the application fees.

As discussed below, the strong public interest is to encourage the volunteer work, emergency communications preparation, scientific investigation, and communications proficiency outlined in the Commission's Rules as the basis and purpose for the Amateur Radio Service.² The Commission has the requisite legal authority under the statute to exempt Amateur Radio operator license applications from fees, and we urge that it do so.³

The Public Interest in Maintaining an Amateur Service Composed of Licensees Without Pecuniary Interests Justifies Exemption from Application Fees

The Commission is authorized by Congress to accept the uncompensated volunteer services of radio amateurs to administer examinations and perform enforcement monitoring.⁴ As part of their public interest compact, amateur operators cannot accept compensation of any kind, direct or indirect, for their services and activities. Nor can amateurs have a pecuniary interest in any amateur communication, including on behalf of their employer.⁵

Thus, unlike other services regulated by the Commission, the Amateur Radio Service is largely self-governing pursuant to specific and unique statutory provisions. Section 4(A) of the Communications Act as amended specifically authorizes the Commission to accept the services

² 47 C.F.R. § 97.1.

³ 47 U.S.C. § 159a(d): "The Commission may waive, reduce, or defer payment of a fee ... in any specific instance for good cause shown, if such action would promote the public interest."

⁴ See Communications Act of 1934 as amended, 47 U.S.C. § 154(f)(4).

⁵ See *Id.* at 47 U.S.C. § 153(2): an "amateur station" is one "operated by a duly authorized person interested in radio technique solely with a personal aim and without a pecuniary interest." See also 47 C.F.R. § 97.1, recognizing "the value of the amateur service to the public as a voluntary noncommercial communication service, particularly with respect to providing emergency communications" and 47 C.F.R. § 97.113(a), prohibiting amateur communications "for hire or for material compensation, direct or indirect, paid or promised" and communications "in which the station licensee or control operator has a pecuniary interest, including communications on behalf of an employer."

of amateur radio operators to prepare and administer examinations for amateur licenses, so long as the services are “voluntary and uncompensated”. Since 1985, the Commission has been free of the work entailed by preparing, administering, grading, and reporting amateur examinations. This has been done exclusively by amateur radio organizations that in turn submit to the Commission only the paperwork required to issue a license. Increasingly the required information is uploaded to the Commission’s database, further freeing Commission personnel from licensing paperwork as well as day-to-day examination processes.⁶

The addition of an application fee will greatly increase the complexity and requirements for volunteer examiners if they will be expected to collect and remit an application fee to the Commission on behalf of each successful examinee, or otherwise to provide a means for each successful examinee to submit fees to the Commission in conjunction with an application that must be submitted by the volunteer examiner. The ARRL is the largest of the multiple amateur organizations whose volunteers conduct examinations throughout the country. In 2019, ARRL volunteers conducted over 6,700 separate examination sessions in the United States and its territories, including the first ever remote video exam session, and filed with the FCC over 29,000 individual applications.⁷

Section (4)(B) of the Communications Act similarly permits the Commission to accept the volunteer services of radio amateurs and radio amateur organizations for the purpose of monitoring for violations of the Act or the Commission’s regulations related to amateur radio operations. In 2019 the Commission and ARRL signed a new Memorandum of Understanding to establish a new and enhanced Volunteer Monitor program. Approximately 200 volunteers have been trained by the ARRL and have spent thousands of hours monitoring the amateur radio

⁶ See *Id.* at 154(f)(4)(A).

⁷ See ARRL 2019 Annual Report at p. 12: <https://tinyurl.com/y4jh7yhn> (last viewed Nov. 13, 2020).

spectrum to find and report significant violations as they occur. This work is being performed in cooperation with the Commission's Enforcement Bureau.⁸

Amateur volunteers and organizations also administer programs for assigning club station licenses and for assigning short-term special event callsigns. Amateur club licenses initially are approved by an FCC-approved Club Station Call Sign Administrator (CSCSA). Each CSCSA is an amateur radio organization that has agreed to provide voluntary, uncompensated and unreimbursed services for processing these types of applications.⁹

In the case of short-term special event callsigns, a volunteer Special Event Call Sign Coordinator approved by the Commission schedules use of one of the pre-designated special call signs and publishes the relevant details on a publicly-available Web site. There is no Commission application or action for temporary permission to use one of the special callsigns.¹⁰

By these volunteer services, the radio amateur community is directly involved in lessening the regulatory burden – including the application burden – on the Commission's resources and budget in ways that other services are not. In 1985 the amateur service was not included in the statutory list of services subject to application fees, and the 2018 statute and its legislative history do not provide evidence that Congress intended for the amateur service to be subject to new application fees.¹¹

⁸ *Id.* at p.10; *See also, New Volunteer Monitoring Program Up and Running* (dated April 10, 2020): <https://tinyurl.com/y3elmqw2> (last visited Nov. 13, 2020).

⁹ *See* <https://tinyurl.com/y9u7qmeh> (last visited Nov. 13, 2020).

¹⁰ *See* <https://tinyurl.com/ya2l77xh> (last visited Nov. 13, 2020).

¹¹ Most (if not all) of the other services to which application fees are proposed to be applied for the first time are new services that did not exist when the earlier statutory schedule was adopted.

The Public Interest in Amateur Emergency Communications, STEM Education, and Other Volunteer Services Justifies Exemption from Application Fees

The Amateur Radio Service has a unique basis in the Commission's Rules. In addition to the non-pecuniary requirements and self-regulation aspects discussed above, the basis for the service articulated in the Commission's rules provides that the service is non-commercial and public service oriented. Providing public service and emergency communications is recognized by the Commission in Part 97.1 of its rules and are major activities carried out by radio amateurs throughout the year at no cost to the federal government.

In 2019, there were over 31,000 members active in the ARRL's Amateur Radio Emergency Service (ARES) alone. Local ARES sections reported taking part in 37,386 events at which almost 573,000 volunteer hours were donated. The estimated total volunteer value was more than \$14.5 million.¹²

One example of such activity is emergency communications work being performed by radio amateurs in the Hawaiian Islands. A group of radio amateurs is developing a digital communications network to support fast and efficient communication capabilities to be used in cases of natural disaster for both intra- and inter-island communications and for communications to the mainland United States, which is 2,400 miles distant. The system is based on a digital messaging system, Winlink, which itself was created by volunteer radio amateurs to provide the ability for users to exchange email with attachments, photos, position reporting, weather, and information bulletins.¹³ Winlink digital data systems have been used extensively in the aftermath of high-impact hurricanes in the Caribbean, where the International Telecommunications Union

¹² *Id.* at p. 5.

¹³ See *Hawaii ARES Leverages Contest Station and Winlink for 2019 Simulated Emergency Test* (dated Oct. 9, 2019) at <https://tinyurl.com/yyo232fm> (last viewed Nov. 13, 2020).

(ITU) is assisting local amateur groups in building durable systems that can be used during hurricanes and other emergency situations.¹⁴

In Part 97.1 of its Rules the Commission also recognizes the public interest purpose of the amateur radio service “to contribute to the advancement of the radio art”, to advance “skills in both communication and technical phases of the art”, and to expand “the existing reservoir within the amateur radio service of trained operators, technicians, and electronics experts.” Accomplishing these purposes entails working with young people, many of whom may have difficulty paying the proposed application fee of \$50.00, \$100.00, or \$150.00. The \$150.00 fee would be the cost of passing the examinations for the three amateur license levels in three examination sessions. Such multiple application fees to upgrade one’s class of license would dampen the incentive to study and demonstrate the greater proficiency needed to pass the examinations for the higher amateur classes.

Examples of the leading edge work being done by high school and college radio amateurs is publicly demonstrated at a number of yearly conferences. HamSCI is one such conference. This year it was held in March virtually because of the Coronavirus pandemic. This conference was supported in part by the National Science Foundation and by the University of Scranton (Pennsylvania).

Papers describing a wide variety of scientific-oriented subjects under study were presented at the conference by many young amateur radio operators. Among subjects presented by individuals identified as licensed radio amateurs were titles as varied as “Synchronized Multiple Radio Telescope Microwave SETI”; “Observations and Modeling Studies of the Effects of the 2017 Solar Eclipse on SuperDARN HF Propagation”; “Operating Auroral Mode Ham Radio;

¹⁴ See *ITU Strengthens Emergency Telecommunications in 2018 in the Americas*, <https://tinyurl.com/y43pmrx7> (last visited Nov. 13, 2020).

Amateur Digital Mode Based Sensing: FT8 Use as a Radar Signal of Opportunity for Ionospheric Characterization”; and “Using Amateur Radio to Validate Model-based Properties of Earth’s Protective Shield.”¹⁵ Encouraging study and expertise in needed STEM subjects is at the core of many amateur radio activities.

The Commission’s Application Fee Authority

In 1985 Congress enacted by statute a specific application fees schedule that excluded amateur radio operator applications. By the beginning of this decade, however, Congress had ceased regularly amending the schedule to provide for collection of fees in new services that had not existed when the schedule was enacted. With an exploding communications landscape, new services were being created, allocated spectrum, and users licensed but the Commission was unable to collect application fees because the new services were not specifically listed in the statute. The amendments to the Communications Act being implemented in this proceeding are a cure to that problem. The new statutory authority allows the Commission to collect application fees for established and new services alike, so long as such fees are cost-based and therefore could not be considered taxes.

Amateur radio applications were not listed when the Congress adopted its 1985 fee schedule for applications, and therefore amateur license applications were excluded from the collection of fees. Similarly, a decade later when regulatory fees were authorized, the amateur service was excluded except for the costs associated with issuing vanity call signs in the amateur service. The new statutory provisions are similar: amateur radio license applications are not addressed in the application fees section, and explicitly excluded from regulatory fees. However,

¹⁵ A complete list of HamSCI 2020 presentations and information on viewing them is at: <https://hamsci.org/hamsci-2020-program> (last visited Nov. 13, 2020).

because of the removal of the explicit service list, the Commission in the Notice has included radio amateur applications within the category of applications for which fees should be collected, and proposed to levy a \$50. fee on every amateur application except for those filed to make administrative updates.

While the Commission's reasoning is understandable when based purely on the text of the new statutory provision, there is no evidence of any intent by Congress to change the exempt status of amateur applications and instead subject them to new fees. The amateur service is not one of the new services intended to be included by the flexibility extended to the Commission. Indeed, the amateur service dates to the original regulation of wireless in 1912, even predating commercial services such as broadcast radio.

The basis for excluding amateur applications from fees in 1985 likely was recognition of the self-regulation and volunteer examination responsibilities authorized by Congress just three years earlier, in 1982. In any event, the public interest continues to require increased STEM opportunities to grow the American economy, last-ditch communications capabilities to be available during times of natural disasters and other emergencies, and focused effort to improve our knowledge of radio propagation and related scientific fields upon which our future wireless world depends, including today's 5G and tomorrow's 6G. These are the purposes served by amateur radio, and the proposed application fee would deter from fulfilling these purposes.

The new statute explicitly permits the Commission to "waive, reduce, or defer payment of a fee ... in any specific instance for good cause shown, if such action would promote the public interest."¹⁶ The Commission should exercise this authority and exempt radio amateur applications from application fees generally. We recognize that under the earlier statute the

¹⁶ *Supra* note 3.

Commission relied on legislative history to hold that because, in essence, specific categories of services were spelled out by Congress in the fees schedule, application of that waiver authority should not be applied to whole categories of services. That context and related legislative history is not present with this new statute, however, and should not be misapplied to this new statutory provision.

Should the Commission decide to not waive the fee for all amateur radio license applications, we respectfully request that the application fee be waived for applicants of 26 years of age or less. Many persons in this age category are students or otherwise with limited means but are the very persons who have the most to contribute to the future of radio technology and other STEM-related endeavors. They also are the most likely to want to learn and upgrade their licenses, which would cost them \$150.00 in application fees to take all three examinations as their knowledge and experience improve their capabilities.

Respectfully submitted,

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